

REMARKS

Claims 40, 42, and 59 are amended and claims 29-65 remain pending in the application for consideration. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application.

5 Applicant makes no representation that the cited references are prior art. This response and any remarks or comments included herein are not intended to be, and are not to be interpreted as, an admission that any cited references are prior art. Applicant reserves the right to dispose of any cited reference under 35 U.S.C. § 102 and/or 35 U.S.C. § 103, including but not limited to antedating
10 any one or more of the cited references.

Claim Objection

Claim 40 is objected to based on an alleged informality. Without conceding the propriety of the objection and solely for the purpose of furthering
15 prosecution, Applicant has amended claim 40. Accordingly, withdrawal of the objection to claim 40 is requested.

Claim Rejection 35 U.S.C. §102

Claims 29-65 stand rejected under 35 U.S.C. § 102(e) as being anticipated
20 by U.S. Pat. App. Pub. No. 2002/0065864 to Hartsell, et al. (“Hartsell”). Applicant respectfully traverses this rejection and submits that a prima facie case of anticipation cannot be established based on the subject matter cited in Hartsell for at least the reason that Applicant’s claimed subject matter has a priority date prior to the effective priority date of the subject matter relied on in Hartsell.

To be used in support of a prima facie case of anticipation under 35 U.S.C. § 102(e), the subject matter relied upon in a cited reference must have a priority date that occurs before the earliest priority date of the application under examination. The present application claims priority to several earlier applications
5 dated March 30, 2000. In the Response to Arguments section of the office action, the Office mentions that Hartsell claims priority to several provisional applications, one of which is dated March 3, 2000. Applicant has reviewed the subject matter cited by the Office in the Hartsell reference and submits that this subject matter is not entitled to the March 3, 2000 priority date for at least the
10 reason that this subject matter is not disclosed in the provisional application of March 3, 2000. See, e.g., 35 U.S.C. §119(e). Accordingly, Applicant submits that for at least the aforementioned reason, the subject matter cited in the Hartsell reference cannot be relied upon in establishing a prima facie case of anticipation with respect to the claims herein. Applicant respectfully requests that the
15 rejections of claims 29-65 under § 102(e) be withdrawn.

The Claims

Independent claim 29 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Hartsell. Applicant respectfully traverses this rejection for at least
20 the following two reasons. First, Hartsell fails to disclose, teach, or suggest all of the features recited in claim 29 and thus a prima facie case of anticipation cannot be established based on Hartsell.

Second, in its rejection of claim 29, the Office cites to several sections of Hartsell. The sections of Hartsell cited by the Office include Fig. 2 and
25 paragraphs [0189], [0190], [0197], [0204], [0208], [0210], [0236], [0245], and

[0246]. As discussed above, however, Applicant has reviewed the subject matter discussed in these sections of Hartsell and submits that this subject matter is not disclosed in the provisional application of March 3, 2000 and thus is not entitled to the priority date of the provisional application. Thus, this subject matter cannot be
5 utilized in support of a prima facie case of anticipation of claim 29.

Accordingly, Applicant submits that the Office has failed to establish a prima facie case of anticipation with respect to claim 29 and claim 29 is allowable.

Claims 30-41 depend from claim 29 and thus are allowable as depending from an allowable base claim. These claims are also allowable for their own
10 recited features which, in combination with those recited in claim 29, are neither disclosed nor suggested in the references of record.

Claims 42-65 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hartsell. In the Office Action, the Office simply states that:

15 Claims 42 - 65 substantially disclose all the limitations of claims 29 - 41 in system and computer-implemented method with minor modification in the claimed language. The reasons for rejecting claims 29 - 41 apply in claims 42 - 65. Therefore, claims 42 - 65 are rejected for the same reasons. Office Action at pages 6-7.
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First, inasmuch as this statement by the Office may be interpreted to limit the scope of any of the claims herein, Applicant respectfully disagrees and submits that the Office's reasoning is misguided. Second, Applicant submits that the Office has failed to establish a prima facie case of anticipation with respect to
25 claims 42-65 for at least the reasons that (1) Hartsell fails to disclose, teach, or suggest all of the features recited in claims 42-65 and (2) as discussed above, Applicant's claimed subject matter has a priority date that predates that of the subject matter of Hartsell cited by the Office.

Accordingly, and at least for these reasons, Applicant submits that the Office has failed to establish a prima facie case of anticipation with respect to claims 42-65 and claims 42-65 are allowable.

5 **Conclusion**

Applicant requests reconsideration of all stated rejections, and requests issuance of a Notice of Allowability. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

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Respectfully submitted,

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